

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X,

GERALDINE MELNICK and LONNIE
SCHWIMMER,

Plaintiffs,

ORDER

CV 06-6686(JFB)ARL)

-against-

CARY PRESS,

Defendant.

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Lindsay, Magistrate Judge:

Before the court is the plaintiffs' letter application dated June 4, 2008, seeking (1) to preclude the defendant from offering any evidence in opposition to the plaintiffs' allegations or in support of his answer and counterclaims; (2) to strike the defendant's answer and counterclaims; and (3) for costs associated with the motion. The plaintiffs contend that the defendant's response to their document request fails to comply with Fed. R. Civ. P. 34 in that the defendant "simply threw documents into a box." The court disagrees. The photographs annexed to the application reveal that the documents were placed in manilla folders labeled with the number of the corresponding request.¹ The third box does not contain separate manilla folders; rather the defendant labeled the entire third box request number 37. However, the plaintiffs acknowledge that request number 37 is their catch-all request for "any documents the defendant intends to introduce at trial." It appears, the defendant gave the plaintiffs exactly what they asked for - a copy of all the documents the defendant intends to introduce at trial. Accordingly, despite the lack of opposition, the plaintiffs' motion is denied.

Dated: Central Islip, New York
June 17, 2008

SO ORDERED:

_____/s/_____
ARLENE ROSARIO LINDSAY
United States Magistrate Judge

¹Unfortunately, the plaintiffs placed Citibank documents on top of the second box, blocking the court's view of the contents. The court assumes that the second box also contained manilla folders.